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CLERK OF DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY:  DEPUTY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

DEUTSCHE BANK NATIONAL TRUST
COMPANY AS TRUSTEE FOR DOWNEY
2004-AR2,

Plaintiff,

vs.

MARIA L. ROS, an individual, DAVID
CRUZ, an individual, and Does 1 through 10,

Defendants.

CASE NO. 12-CV-01981 BEN (WVG)

**ORDER GRANTING PLAINTIFF'S
EX PARTE MOTION TO
REMAND AND DENYING
DEFENDANTS' MOTION TO
CONSOLIDATE CASES**

[ECF Nos. 2, 3]

On August 9, 2012, Defendants removed this unlawful detainer action to federal court. ECF No. 1. Four days later, Defendants filed a motion to consolidate this case with a different case involving the same property, *Ros v. Deutsche Bank Nat'l Trust Co.*, Case No. 3:12-cv-01929-BEN-WVG. ECF No. 2. Defendants assert that the Court has jurisdiction over this matter because the related cause of action involves a federal question. Plaintiff has filed an *ex parte* motion to remand the case to state court based on lack of jurisdiction. ECF No. 3.

"Only state-court actions that originally could have been filed in federal court may be removed to federal court by the defendant." *Caterpillar, Inc. v. Williams*, 482 U.S. 386, 392 (1987). "Absent diversity of citizenship, federal-question jurisdiction is required." *Id.* "The presence or absence of federal-question jurisdiction is governed by the 'well-pleaded complaint rule,' which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff's

1 properly pleaded complaint.” *Id.*

2 The only claim for relief in this case is a state claim. *See* ECF No. 1-3. Accordingly, the Court
3 lacks subject matter jurisdiction. To the extent Defendants’ argument can be construed as a request
4 for this Court to assert supplemental jurisdiction pursuant to 28 U.S.C. § 1367(a), it is unpersuasive.
5 *Wescom Credit Union v. Dudley*, No. CV 10-8203, 2010 WL 4916578, at *3 (C.D. Cal. Nov. 22, 2010)
6 (noting that the supplemental jurisdiction statute “does not authorize supplemental jurisdiction over
7 free-standing state law claims that are related to a *separate* action over which the court has
8 jurisdiction”).

9 Plaintiff’s motion to remand is **GRANTED**, and the case is **REMANDED** to state court.
10 Defendants’ motion to consolidate is **DENIED** as moot.

11 **IT IS SO ORDERED.**

12 DATED: October 8, 2012


13 HON. ROGER T. BENITEZ
14 United States District Judge
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